

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KARL B. MANUEL,

Plaintiff,

V.

2:20cv1759

Electronic Filing

SUPERINTENDENT MARK

CAPOZZA, C/O JOHN DOE #1,

C/O JOHN DOE #2, C/O SGT. WILES,

C/O LT. DAILEY, MEDICAL

PROVIDER, M.P.A. DARLA

COWDEN, ASST. SUPERINTENDENT

ERIC ARMEL,

Defendants.

MEMORANDUM ORDER

September 1, 2022

Plaintiff, Karl B. Manuel (“Manuel” or “Plaintiff”), commenced this *pro se* prisoner civil rights action pursuant to 42 U.S.C. § 1983 on or about November 17, 2020. The case was referred to Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court for Magistrate Judges. An Amended Complaint (ECF No. 39) was filed on February 7, 2022, asserting claims against Defendants, Superintendent Mark Capozza, Assistant Superintendent Eric Armel, Sgt. Wiles, and Lt. Dailey (collectively, the “Corrections Defendants”), as well as a contracted medical provider, all employed at the State Correctional Institution at Fayette (“SCI – Fayette”). February 22, 2022, the Corrections Defendants filed a Motion to Dismiss the Amended Complaint (ECF No. 42).

On July 14, 2022, Magistrate Judge Kelly filed a Report and Recommendation (ECF No. 48) in which it was recommended that the Corrections Defendants' Motion to Dismiss be granted as to Plaintiff's claims against Defendants Capozza and Armel and as to any claim arising out of

Plaintiff's placement in a Restricted Housing Unit, but denied as to Defendants Wiles and Dailey. Pursuant to the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Civil Rules, the Corrections Defendants were permitted to file objections to the Report and Recommendation on or before July 28, 2022 and the Plaintiff was permitted to file objections to the Report and Recommendation on or before August 1, 2022. No objections have been filed.

After a comprehensive review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 1st day of September, 2022,

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 42) filed on behalf of Defendants, Superintendent Mark Capozza, Assistant Superintendent Eric Armel, Sgt. Wiles, and Lt. Dailey is granted in part and denied in part. The Motion is **GRANTED** as to Plaintiff's claims against Defendants Capozza and Armel, and as to his claims arising out of his placement in the Restricted Housing Unit. The motion is **DENIED** as to Plaintiff's claims against Defendants Daily and Wiles.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 48) dated July 14, 2022, is adopted as the Opinion of the Court.

s/ DAVID STEWART CERCON
David Stewart Cercone
Senior United States District Judge

cc: Karl B. Manuel
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(Via First Class Mail)

Magistrate Judge Maureen P. Kelly
Michael Gaetani, Esquire
Keanna Adinae Seabrooks, Esquire
Samuel H. Foreman, Esquire
(Via CM/ECF Electronic Mail)